

**INTERLOCAL AGREEMENT
BETWEEN
NEW BRAUNFELS UTILITIES
AND
COMAL COUNTY, TEXAS**

This **INTERLOCAL AGREEMENT** (this “Agreement”) is made and entered into by **NEW BRAUNFELS UTILITIES**, a municipally owned utility, hereinafter called **NBU**, and **COMAL COUNTY**, a Texas county government, hereinafter called **COUNTY**, (individually referred to as “Party” or collectively referred to as the “Parties”) and in this regard hereto mutually agree and state as follows:

RECITALS

WHEREAS, NBU is the owner of certain real property located at 3350 Oak Run Parkway, in the City of New Braunfels, Comal County, Texas (the “Tower Site”), on which there is a water tower owned by NBU (the “Tower”);

WHEREAS, the primary purpose of the Tower Site is to serve NBU’s utility purpose of serving water to its customers;

WHEREAS, the COUNTY owns radio repeaters, microwave and Multiprotocol Label Switching (MPLS) backhaul equipment, and associated support equipment (“Radio Equipment”) on 6 different towers throughout Comal County associated with the Greater Austin – Travis County Regional Radio System (GATRRS) zone 2, which permits radio communications and transmissions via radio units;

WHEREAS, the COUNTY desires to (i) lease certain positions on NBU’s Tower for its Radio Equipment and approximately 332 square feet of the Tower Site (the “Leased Parcel”), together with three smaller areas next to the Tower, including a dog house, a concrete collar, and a concrete stoop, more fully described in Exhibit A, and (ii) obtain a right-of-way thereto as hereinafter described (the Leased Parcel, such positions on the Tower and such right of way being hereinafter called the “Leased Property”);

WHEREAS, NBU desires to obtain access to the COUNTY’s Radio Equipment to communicate among various public safety and utility units;

WHEREAS, NBU and COUNTY have determined it is in each party’s best interest to enter into this Agreement to allow the County to lease the Leased Property from NBU for the purpose of housing Radio Equipment for COUNTY’s radio system in exchange for NBU receiving access to the COUNTY’S Radio Equipment; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended, authorizes local governments to enter into contracts to increase the efficiency of certain governmental functions in which the Parties are mutually interested.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties, it is agreed as follows:

LEASE AGREEMENT

1. Leased Property. The Tower Site is more particularly described on Exhibit A attached hereto. The Leased Property is more specifically described in, and substantially shown on, Exhibit B attached hereto and made a part hereof, as the same may be hereafter supplemented and amended by a survey of the Leased Property obtained by the County.

NBU hereby leases to the COUNTY the Leased Property, which includes (i) the Leased Parcel described above, (ii) certain positions on the Tower as described in Exhibit A, and (iii) the grant of a non-exclusive right and temporary easement during the term of this Agreement for ingress and egress, twenty-four (24) hours a day, three hundred sixty-five (365) days per year on foot or by motor vehicle, including trucks, and for the installation and maintenance of utility wires, cables, conduits, and pipes over, under, or along the right of way extending from the nearest public right of way, which is known as Oak Run Parkway to the Leased Parcel, as such right-of-way is shown on Exhibit "B" hereto. Access to the Leased Property shall be granted only as long as the following procedures set forth by NBU are continuously adhered to:

(a) COUNTY shall provide to NBU the working combination or key(s) to COUNTY's lock(s) at the Leased Property,

(b) COUNTY shall designate a technician who is responsible for and has access to the Leased Property, and

(c) COUNTY shall contact NBU's Water Treatment & Compliance Manager prior to entering the Leased Property at any time.

COUNTY'S technician shall be subject to periodic background checks and the findings shall be made available to NBU. COUNTY's technician name, arrival time and location of the Leased Property shall be promptly provided to NBU's designated representative. COUNTY shall have the right to install utilities, at COUNTY's expense, and to improve then existing utilities on the Leased Property (including but not limited to the installation of NBU-approved emergency power generators). NBU shall cooperate with COUNTY in its effort to obtain utility services along the aforementioned right of way by signing such documents or temporary easements as may be required by said utility companies provided that the easements do not interfere with NBU's utility purpose. In the event any public utility is unable or unwilling to use the aforementioned right of way, NBU hereby agrees to grant an additional reasonable right-of-way either to COUNTY or to the public utility to the extent NBU determines in its sole discretion that such additional right-of-way is available for such grant.

Notwithstanding the previous paragraph, NBU shall have the right, at NBU's sole discretion, to develop, impose and enforce a comprehensive security plan for the NBU's Tower Site. Such plan may, among other things, restrict COUNTY's access to NBU's Tower Site and to the Leased Property under terms established by NBU. Such comprehensive security plan shall be provided to COUNTY in writing within forty-eight (48) hours after its effective date.

2. Initial Term. This Agreement shall be for an initial term of five (5) years beginning on the date on which COUNTY commences construction of its hereinafter defined Communications Facility at the Leased Property, or ninety (90) days after execution by NBU whichever occurs first (the "Commencement Date"). In exchange for COUNTY's rights to Leased Property under this Agreement, NBU shall maintain exclusive use and right to license FCC frequencies as provided in Section 4 of this Agreement, both of which shall be deemed fair compensation for the functions and services under this Agreement.

3. Extension of Term. Subject to Section 17, COUNTY shall have the option to extend the term of this Agreement for three (3) additional consecutive five (5) year periods. Each option for an extended term shall be deemed automatically exercised without notice by COUNTY to NBU unless COUNTY gives NBU written notice of its intention not to exercise any such extension option at least six (6) months prior to the end of the then current term. If COUNTY gives NBU written notice of its intention not to exercise any such option, the term of this Agreement shall expire at the end of the then current five-year term. All references herein to the term of this Agreement shall include the term as it is extended from time to time as provided in this Agreement.

4. FCC Frequencies. NBU will be granted use of COUNTY's Radio Equipment for NBU's six (6) FCC frequencies: 153.515, 153.545, 153.575, 158.250, 158.145, and 158.205. Following the end of the Term of this Agreement, including any extensions, or Termination pursuant to Section 17, NBU will maintain exclusive use and right to license NBU's six (6) FCC frequencies for future use. It is expressly understood and agreed that COUNTY will not provide dispatch services for NBU.

5. Use.

(a) COUNTY shall use the Leased Property for the purpose of constructing, maintaining, and operating a communications facility (as described in Section 5(b) (i), (ii), and (iii) below) and any and all uses incidental thereto, which may also include a security fence of chain link or comparable construction that may, at the option of COUNTY, be placed around the perimeter of the Leased Parcel (collectively, the "Communications Facility"). COUNTY shall not replace, change, or add any of the equipment listed on Exhibit "C" without NBU's prior written consent. Such consent shall not be unreasonably conditioned, withheld or delayed. NBU grants COUNTY the right to use such portions of NBU's contiguous, adjoining or surrounding property as described on Exhibit "A" hereto (the "Surrounding Property"), as are reasonably required during construction and installation of the Communications Facility. COUNTY shall maintain the Leased Property

and Surrounding Property in a reasonable condition and shall be solely responsible for the repair and maintenance of all of COUNTY's improvements on the Leased Property and Surrounding Property, excluding repair and maintenance due to the willful misconduct or negligence of NBU, its employees, agents, contractors, licensees, or lessees (other than COUNTY).

(b) The Leased Parcel and positions on the Tower shall be used for, and NBU agrees that COUNTY is authorized to perform, the construction, installation, maintenance and operation, all at COUNTY's sole expense, of the following improvements, radio or microwave equipment, antennas and other associated transmission lines and equipment:

(i) Wireless antenna systems and associated equipment to be mounted on the Tower and in the 199' to 230' foot range on the Tower, such type of systems, equipment, and range as stipulated in the attached Exhibit "C" of this Agreement.

(ii) A prefabricated equipment shelter or concrete pad not to exceed twelve feet by eighteen feet (12' x 18') to be located on the Leased Parcel; and

(iii) Flexible coaxial transmission line between the Tower and the radio equipment located in the equipment shelter or outdoor equipment cabinet.

(c) COUNTY must complete all construction within six (6) months after execution of this Agreement, and COUNTY's failure to complete all construction in the time prescribed in this Section shall be grounds for NBU to terminate this Agreement.

6. Governmental Approvals. COUNTY's ability to use the Leased Property is contingent upon its obtaining and maintaining in effect all certificates, permits, licenses and other approvals that may be required by any governmental authorities. NBU shall cooperate reasonably with COUNTY in its effort to obtain and maintain in effect such certificates, permits, licenses, and other approvals. In furtherance thereof, NBU agrees to sign such papers as are required to file applications with the appropriate zoning authority and other governmental authorities for the proper zoning of the Leased Property and for other certificates, permits, licenses and approvals as are required for the use of the Leased Property as intended by COUNTY. COUNTY will perform all other acts and bear all expenses associated with any zoning or other procedure necessary to obtain any certificate, permit, license, or approval for the Leased Property deemed necessary by COUNTY. NBU agrees not to register any written or verbal opposition to any such procedures only to the extent NBU determines such procedure does not unduly interfere with NBU's utility use of the Leased Property. If at any time during the term of this Agreement, COUNTY is unable to use the Leased Property for COUNTY's Communications Facility due to imposed zoning conditions or requirements, or in the event that any necessary certificate, permit, license, or approval is finally rejected or any previously issued certificate, permit, license, or approval is canceled, expires, lapses, or is otherwise withdrawn or terminated by the applicable governmental authority, or any structural analyses, subsurface boring tests, environmental inspections, radio frequency tests, or other investigations are found to be unsatisfactory so that COUNTY will be unable to use the Leased Property for

COUNTY's Communications Facility, COUNTY shall have the right to terminate this Agreement by written notice to NBU. Upon such termination, Parties shall have no other further obligations to each other, other than COUNTY's obligation to remove its property as hereinafter provided and allow NBU to maintain exclusive use and right to license NBU's six (6) FCC frequencies for future use.

7. Interference.

(a) NBU acknowledges and agrees that it will not permit the installation of any additional antennas or equipment on the Tower or at the Tower Site, or the relocation of any existing antennas or equipment installed on the Tower or at the Tower Site, to the extent NBU determines in its sole discretion that such installation or relocation would adversely affect COUNTY's space on the Tower or COUNTY's operation, use, or enjoyment of its Communications Facility, assuming the use of customary and commercially reasonable practices for wireless communication sites and towers thereon.

(b) NBU shall not, and shall not permit any subsequent licensee, lessee, sublessee, or other user of the Tower (collectively, "Other Lessees"), to (i) install or change, alter or improve the frequency, power, or type of any communications equipment that interferes with the operation of COUNTY's Communications Facility or is not authorized by, or violates, applicable Laws (hereinafter defined) or is not made or installed in accordance with good engineering practices, or (ii) implement a configuration which interferes with the operation of COUNTY's Communications Facility.

(c) In the event of any interference occurring at the Tower Site as a result of any actions of NBU or any Other Lessees described in Section (b) above, NBU shall use commercially reasonable efforts to resolve any such interference problems, including, without limitation, using its best efforts to correct and eliminate the interference within forty-eight (48) hours of receipt by NBU of notification from COUNTY and, if requested by NBU, COUNTY shall perform at its expense an interference study in accordance with industry-standard procedures and practices. If unreasonable interference is confirmed and such interference cannot be corrected or eliminated within such 48-hour period NBU shall cause any of NBU's or its Other Lessees' communications equipment that unreasonably interferes with the operation of COUNTY's Communications Facility or COUNTY's authorized frequency spectrum or signal strength, to immediately discontinue the cause of such interference, including but not limited to, powering down or turning off such equipment, with the right to resume such interference only during off-peak hours specified by COUNTY in order to determine whether such interference continues or has been eliminated; provided, however, that if any interference continues at the time the interfering equipment is powered down, the communications equipment that interferes with the operation of COUNTY's Communications Facility shall be turned off. If NBU or any such Other Lessee cannot correct or eliminate, to the reasonable satisfaction of COUNTY, such interference within twenty (20) days of receipt by NBU of written notice from COUNTY, NBU shall or shall cause such Other Lessee to cease the operations of the objectionable communications equipment and to stop providing services from the Tower Site until the interference problems are resolved; provided, however, that if NBU does not timely cease

or cause such Other Lessee to cease such operations, COUNTY may elect to terminate this Agreement by written notice to NBU.

(d) COUNTY shall not (i) install, change, alter or improve the frequency, power, or type of any communications equipment that interferes with the operation of NBU's or any pre-existing Other Lessee's existing communications equipment installed at the Tower Site or is not authorized by, or violates, applicable Laws or is not made or installed in accordance with good engineering practices, or (ii) implement a configuration which interferes with the operation of NBU's or any pre-existing Other Lessee's existing communications equipment installed at the Tower Site.

(e) In the event of any interference occurring at the Tower Site as a result of any action or inaction of COUNTY, COUNTY shall be responsible for coordinating and resolving any such interference problems caused by COUNTY, including, without limitation, using its best efforts to correct and eliminate the interference within forty-eight (48) hours of receipt of notification from NBU. If the interference cannot be corrected or eliminated within such 48-hour period, COUNTY shall cause any of COUNTY's communications equipment that interferes with the operation of NBU's or any Other Lessee's communications equipment or their authorized frequency spectrum or signal strength, to be immediately powered down or turned off, with the right to turn such interfering equipment back up or on only during off-peak hours specified by NBU in order to determine whether such interference continues or has been eliminated; provided, however, that if any interference continues at the time the interfering equipment is powered down, the communications equipment that interferes with the operation of NBU's or any Other Lessee's communications equipment shall be turned off. If COUNTY cannot correct or eliminate, to the satisfaction of NBU, such interference within twenty (20) days of receipt of written notice from NBU, COUNTY shall cease the operations of the objectionable communications equipment and stop providing services from its Communications Facility until the interference problems are resolved. If COUNTY determines that such interference cannot be corrected or eliminated by commercially reasonable measures, then either NBU or COUNTY may elect to terminate this Agreement by written notice to the other.

(f) As used herein, "Laws" means all federal, state, county, municipal and other governmental constitutions, statutes, ordinances, codes, regulations, resolutions, rules, requirements and directives and all decisions, judgments, writs, injunctions, orders, decrees or demands of courts, administrative bodies and other authorities (including, without limitation, the Federal Communications Commission) construing any of the foregoing.

8. Maintenance and Repair.

(a) NBU represents and warrants that its operation of the Tower and the Tower Site (exclusive of COUNTY's Communications Facility) meets and will be maintained in accordance with all applicable laws, rules and regulations, including, without limitation, rules and regulations of the Federal Communications Commission ("FCC"), Federal Aviation Administration ("FAA") and all applicable state and local codes and regulations.

COUNTY has complied with all tower registration, marking, and lighting requirements of the FCC and FAA. NBU shall maintain the Tower and Tower Site, including NBU's antennas, transmission lines, equipment and buildings, in good operating condition. COUNTY is solely responsible for maintaining the lighting system, including any required monitoring, and the licensing, operation, and maintenance of COUNTY's Communication Facility, including, without limitation, compliance with any terms of its FCC license.

(b) The costs of maintaining the Tower and the Tower Site (exclusive of COUNTY's Communication Facility and lighting system) shall be borne by NBU or a party other than COUNTY.

9. Use of Subcontractors. COUNTY shall not use subcontractors for all or any work under this Agreement without the prior written consent of NBU in its sole discretion. If any work under this Lease is subcontracted in any way, COUNTY shall execute written agreements with its subcontractors requiring indemnification provisions and insurance requirements approved by NBU. COUNTY shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

10. Liability.

(a) COUNTY shall be solely responsible, as between NBU and COUNTY and the agents, officers, and employees of the COUNTY, for and with respect to any claim or cause of action arising out of or with respect to any act, omission, or failure to act by COUNTY or its agents, officers, employees, and subcontractors, while on NBU property or while using any NBU facility or performing any function or providing or delivering any service undertaken by NBU pursuant to this Agreement.

(b) It is specifically agreed that, as between the Parties, each Party to this Agreement shall be individually and respectively responsible for responding to, dealing with, insuring against, defending, and otherwise handling and managing its liability and potential liability pursuant to this Agreement; each Party hereto reserves and does not waive any defense available to it at law or in equity as to any claim or cause of action whatsoever that may arise or result from the services provided and/or any circumstances arising under this Agreement. This Agreement shall not be interpreted nor construed to give to any third party the right to any claim or cause of action, and neither the COUNTY nor NBU shall be held legally liable for any claim or cause of action arising pursuant to, or out of the services provided under this Agreement except as specifically provided herein or by law.

(c) COUNTY shall maintain, at its own expense, adequate insurance coverage for its Communication Facility and lighting system throughout the term of this Agreement. Upon execution, COUNTY shall provide suitable evidence of insurance coverage to NBU.

(d) No Party hereto waives or relinquishes any immunity or defense on behalf

of itself, its commissioners, councilmembers, trustees, officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants and agreements contained herein.

11. Sale of Leased Property. If NBU, at any time during the initial or any extended term of this Agreement, decides to sell, subdivide or rezone any of the Leased Property, the Tower or any part of NBU's Surrounding Property utilized by COUNTY pursuant to this Agreement, to a purchaser other than COUNTY, NBU shall promptly notify COUNTY in writing, and such sale, subdivision or rezoning shall be subject to this Agreement and COUNTY's rights hereunder. NBU shall not initiate or consent to any change in the zoning of the Leased Property or NBU's Surrounding Property utilized by COUNTY pursuant to this Agreement or impose or consent to any other restriction that would prevent or limit COUNTY from using the Leased Property as set forth in this Agreement. NBU agrees not to sell, lease or use any areas of NBU's Surrounding Property for the installation, operation or maintenance of other wireless communications facilities if NBU, in its sole discretion, determines that such installation, operation or maintenance will, with 100% certainty, interfere with COUNTY's facilities or communications equipment as reflected by radio propagation tests performed by COUNTY in its reasonable discretion or by a third party at NBU's direction and discretion. COUNTY and either NBU or NBU's prospective purchaser shall share the cost of such third-party testing equally. If NBU determines in its sole discretion that the radio frequency propagation tests demonstrate levels of interference that are unacceptable, in accordance with accepted industry standards, NBU shall be prohibited from selling, leasing or using any areas of NBU's Surrounding Property for purposes of any installation, operation or maintenance of any other wireless communications facility or equipment. NBU shall not be prohibited from the selling, leasing or use of any of NBU's Surrounding Property for any other use. The provisions of this Section shall in no way limit or impair the obligations of NBU under Section 7.

12. Assignment; No Sublease.

- (a) COUNTY shall not transfer or assign this Agreement or COUNTY's interest in or to the Leased Property or any part thereof.
- (b) COUNTY shall not sublet the Leased Property herein leased or any part thereof.

13. Casualty.

- (a) If COUNTY's Communications Facility or improvements are damaged or destroyed, in whole or in part, by fire or other casualty, COUNTY shall not be required to repair or replace the Communications Facility or any improvements made by COUNTY, and COUNTY may terminate this Agreement by giving written notice to NBU. Termination shall be pursuant to Section 17 of this Agreement.
- (b) In the event the Tower (excluding any damage the repair of which is required to be completed by COUNTY) is damaged to the extent of twenty-five percent (25%) or more of the cost of replacement thereof (whether or not the Leased Property is

damaged) and such damage (i) occurs during the last two years of the Term (taking into account any extensions of the Term by COUNTY in accordance with the terms of this Agreement), or (ii) in the reasonable judgment of NBU, cannot reasonably be repaired or restored within a period of one hundred and eighty (180) days following commencement of such repair or restoration using standard working methods and procedures, or (iii) is not, or would not have been, covered by a standard fire and extended coverage insurance policy, or (iv) is compensable with insurance proceeds all or a significant portion of which is required to be paid to NBU's mortgagee in reduction of the indebtedness secured by any Mortgage encumbering the Tower or Tower Site, NBU shall have the right and option, in its sole discretion, to terminate this Agreement upon the delivery of notice thereof to COUNTY within ninety (90) days after the occurrence of such damage or destruction. If such notice is given, NBU agrees to use its reasonable efforts to permit COUNTY to place temporary transmission facilities at an alternative location acceptable to COUNTY until such time as COUNTY is able to secure a replacement transmission location for the Leased Property. If NBU elects to rebuild the Tower, NBU agrees to use its reasonable efforts to permit COUNTY to place temporary transmission facilities at an alternative location acceptable to COUNTY until such time as the rebuilding is completed. In any case, COUNTY agrees that it will use its reasonable efforts to avoid interfering with NBU's efforts to rebuild the Tower.

14. Hazardous Substances. COUNTY agrees that it will not use, generate, store, or dispose of any Hazardous Materials in, on, or under the Leased Property in violation of any law or regulation.

15. Default.

(a) If COUNTY should fail to perform any of the covenants, terms, or conditions of this Agreement, prior to exercising any rights or remedies against COUNTY on account thereof, NBU shall first provide written notice TO COUNTY specifying the nature of the failure and provide to COUNTY a thirty (30) day period following COUNTY's receipt of such notice to cure such failure. If the failure is not capable of being cured within such thirty (30) day period, COUNTY shall be afforded a reasonable period of time following COUNTY's receipt of notice to cure the failure, provided that COUNTY promptly commences curing the failure after receipt of the notice and prosecutes the cure to completion with due diligence.

(b) In the event that COUNTY is in default of its obligations described in paragraph (a) above, NBU may, at its option and in any addition to any other right or remedy available hereunder, at law or in equity, incur reasonable expenses necessary to perform the obligation of COUNTY specified in such notice, and any amount paid by NBU in so doing shall be deemed paid for the account of COUNTY, and COUNTY hereby agrees to reimburse NBU therefore on request by NBU.

(c) In the event that NBU is in default of its obligations hereunder and such default continues for thirty (30) days after receipt of written notice from COUNTY, COUNTY's sole recourse and remedy is to terminate this Agreement pursuant to Section 17.

16. Notices. Except as otherwise provided herein, any notices or demands which are required by law or provided under the terms of this Agreement shall be given or made by NBU or COUNTY in writing and shall be given by hand delivery, or sent via certified or registered mail, with postage prepaid and return receipt requested, or by a national overnight receipted delivery service which provides signed acknowledgments of receipt (including Federal Express, UPS, and other similar delivery services), and addressed to the respective parties set forth below. Such notices shall be deemed to have been given when delivered. Every notice, demand, or request hereunder shall be sent to the addresses listed below:

If to NBU: New Braunfels Utilities
 ATTN: Chief Technology and Security Officer
 263 Main Plaza
 New Braunfels, TX 78130

With a copy to:

 General Counsel
 New Braunfels Utilities
 263 Main Plaza
 New Braunfels, TX 78130

If to COUNTY: Comal County
 ATTN: County Judge
 150 N. Seguin Ave.
 New Braunfels, TX 78130

With a copy to:

 Comal County
 ATTN: Purchasing Director
 1297 Church Hill Dr.
 New Braunfels, TX 78130

Rejection or refusal to accept delivery of any notice, or the inability to deliver any notice because of a changed address of which no notice was given, shall be deemed to be receipt of any such notice.

17. Termination.

(a) COUNTY shall have the right to terminate this Agreement upon the event of an uncured material breach of this Agreement by NBU. COUNTY must provide ninety (90) days prior written notice to NBU of such material breach, allowing NBU such ninety (90) day period to cure such claimed material breach. If, after the expiration of such ninety (90)

day period, NBU has not provided a written response to COUNTY that it is working diligently to cure such claimed material breach, or that such claim is unfounded, then COUNTY shall execute a written cancellation of this Agreement vacating the Leased Property in recordable form and COUNTY shall remove its property as hereinafter provided.

(b) If COUNTY's Communications Facility or improvements are damaged or destroyed, in whole or in part, by fire or other casualty, by no fault of COUNTY, COUNTY shall have the right either to repair such Communications Facility as described in Section 13, or to terminate this Agreement upon the occurrence of the following requirements: COUNTY must (1) provide thirty (30) days prior written notice to NBU of such termination and (2) remove all of COUNTY's Communications Facility and restore the Leased Property to the condition prior to such casualty, subject to NBU's procedures and terms described in this Agreement. Only after the occurrence of all of these events precedent, shall such termination take effect.

(c) In addition to any other provisions of this Agreement, NBU shall have the right, exercisable by at least ten (10) days prior written notice thereof to COUNTY, to terminate this Agreement upon occurrence of one or more of the following events:

(i) if COUNTY shall violate or breach, or shall fail fully and completely to observe, keep, satisfy, perform and comply with, any other agreement, term, representation, warranty, covenant contained in this Agreement, and shall not cure such violation, breach, or failure within thirty (30) days after NBU gives COUNTY written notice thereof, or, if such failure shall be incapable of cure within thirty (30) days, if COUNTY shall not commence to cure such failure within such thirty (30) day period and continuously prosecute the performance of the same to completion with due diligence; or

(ii) if NBU determines a utility need necessitates the termination of this Agreement; or

(iii) as otherwise provided in this Agreement.

(d) Upon any Termination of this Agreement, NBU will maintain exclusive use and ownership of NBU's six (6) FCC frequencies.

18. Removal of Improvements. Title to all improvements constructed or installed by COUNTY on the Leased Property shall remain with COUNTY, and all improvements constructed or installed by COUNTY shall at all times be and remain the property of COUNTY, regardless of whether such improvements are attached or affixed to the Leased Property. Furthermore, all improvements constructed or installed by COUNTY shall be removable and shall be removed by COUNTY at the expiration or earlier termination of this Agreement. COUNTY, upon termination of this Agreement, shall, within thirty (30) days, remove all improvements, fixtures and personal property constructed or installed on the Leased Property by COUNTY and restore the Leased Property to substantially the same condition as when received, reasonable wear and tear and damage by insured casualty

excepted. COUNTY shall not be required to remove any foundations, driveways, or underground cables or wires. If such removal causes COUNTY to remain on the Leased Property after a planned termination of this Agreement, COUNTY shall pay market rent as determined by NBU, until such time as the removal is completed. In such event all obligations of COUNTY under this Agreement shall survive such termination for such period.

19. Funding. Each Party paying for the performance of governmental functions or services under this Agreement must make those payments from current revenues available to the paying Party.

20. Entire Agreement/Amendment. This Agreement cannot be modified except by a written modification executed by NBU and COUNTY in the same manner as this Agreement is executed. The headings, captions and numbers in this Agreement are solely for convenience and shall not be considered in construing or interpreting any provision in this Agreement. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include other genders and the singular to include the plural, if applicable. This Agreement contains all agreements, promises and understandings between Parties, and no verbal or oral agreements, promises, statements, assertions or representations by Parties or any employees, agents, contractors or other representatives of either, shall be binding upon Parties.

21. Governmental Functions. Notwithstanding any provision to the contrary herein, this Agreement is a contract for and with respect to the performance of governmental functions by a governmental entity.

22. RF Emissions.

(a) COUNTY shall have the right to place electromagnetic energy warning signs on or about the Leased Property and proximate to its Communications Facility and equipment and to restrict access to its Communications Facility so long as NBU's and Other Lessees' designated representatives are not prohibited from access to the Tower Site and the Surrounding Property and such warning signs are in compliance with applicable law.

(b) NBU shall use commercially reasonable diligence to, and shall take commercially reasonable steps to attempt to require each Other Lessee to, operate their respective equipment, if applicable, in compliance with all laws and regulations governing radio frequency energy emissions (the "**RF Emissions Regulations**"). NBU agrees that it shall use commercially reasonable diligence, and shall take commercially reasonable steps to attempt to require all Other Lessee's that locate and operate transmitting equipment at the Tower Site to agree that, if the Tower Site fails to meet the RF Emissions Regulations, or would fail by the addition or modification of the equipment at the Tower Site, to comply with the RF Emissions Regulations at any time during the term of this Agreement, then the Other Lessee at the Tower Site causing or who would cause such failure, shall promptly take commercially reasonable steps to bring the Tower Site into compliance, including

preparation and filing of any required environmental assessments and modifications of its equipment.

23. Security Interest. It is the express intent of the parties to this Agreement that NBU has no lien or security interest whatsoever in any personal property of COUNTY, and, to the extent that any applicable statute, code, or law grants NBU any lien or security interest, to the extent permitted by law, NBU hereby expressly waives any rights thereto.

24. Governing Law; Survival. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Comal County, Texas. The terms of this Agreement which are reasonably intended to survive the termination of this Agreement in order to fulfill the purposes of this Agreement shall survive such termination to the limited extent necessary to fulfill such purpose.

25. Attorney's Fees. Other than with respect to alleged non-payment by COUNTY, NBU and COUNTY agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("disputes") to non-binding mediation before filing a suit concerning this Agreement. In any proceeding which either party may prosecute to enforce its rights hereunder, the unsuccessful party shall pay the reasonable attorneys' fees and court costs incurred by the prevailing party.

26. Surveys. NBU hereby grants to COUNTY the right to survey the Leased Property and NBU's Surrounding Property, and the legal description of the Leased Property on the survey obtained by COUNTY shall then be added to and incorporated into Exhibit B of this Agreement and shall control in the event of discrepancies between it and any preliminary description of the Leased Property shown on Exhibit B.

27. Binding Effect. The covenants and agreements herein contained shall inure to the benefit of and be binding upon the parties hereto, their respective legal representatives, successors, and assigns, and if there shall be more than one party designated as the COUNTY in this Agreement, they shall each be bound jointly and severally hereunder.

28. Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which shall constitute the same agreement.

29. Authority. The Chief Executive Officer of NBU and the County Judge of the County are hereby authorized and directed to execute this Agreement on behalf of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

NBU: NEW BRAUNFELS UTILITIES,
a Texas municipal owned utility

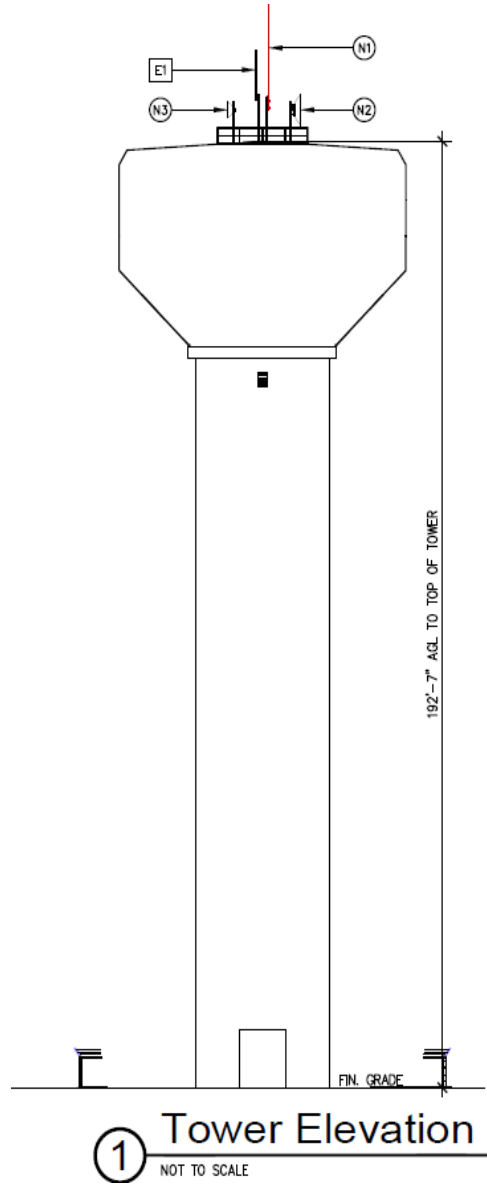
By: _____
Print Name: Ian Taylor
Its: Chief Executive Officer
Date _____

COUNTY: COMAL COUNTY

By: _____
Printed Name: Sherman Krause
Its: County Judge
Date: _____

EXHIBIT A

Description of Tower Site

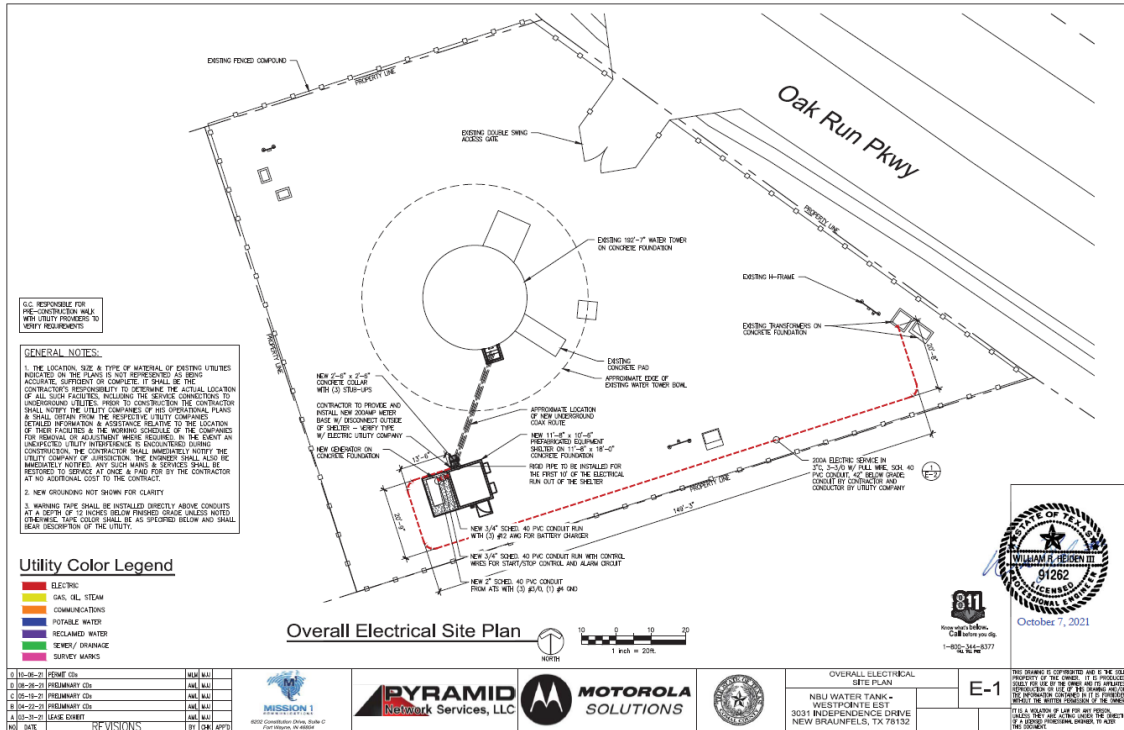


Note: Antenna E1 (existing) belongs to NBISD

EXHIBIT B

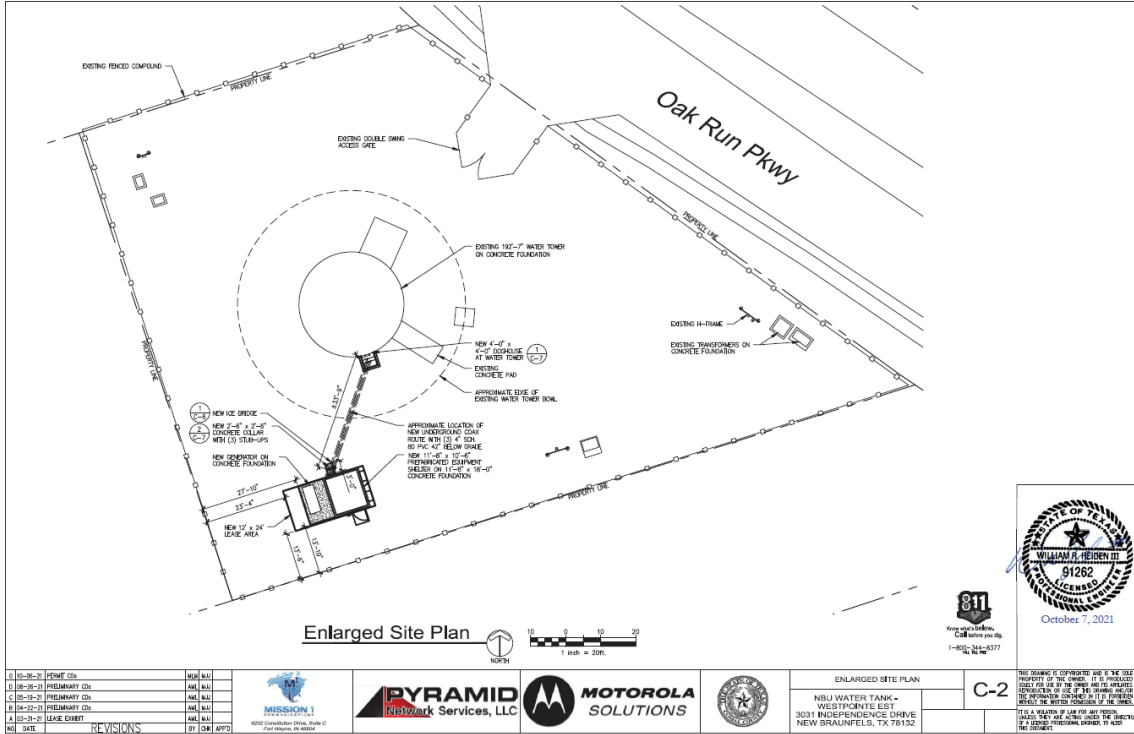
Description of Leased Property Site Plan

An approximately twelve feet (12') x twenty four foot (24') portion out of a tract of land, together with temporary easements for ingress, egress and utilities legally described as follows and depicted on the site sketch attached hereto:



Error! Unknown document property name.

NBU Site Name: Westpointe WT



10-26-20	PERM CD	MJM/BAU
08-28-20	PRELIMINARY CD	AKL/BAU
05-29-20	PRELIMINARY CD	AKL/BAU
04-29-20	PRELIMINARY CD	AKL/BAU
03-23-20	LEASE EXHIBIT	AKL/BAU
N/A	REVISIONS	BT/DAM/APP



ENLARGED SITE PLAN
 NBU WATER TANK - WESTPORT SITE
 3031 INDEPENDENCE DRIVE
 NEW BRAUNFELS, TX 77852



C-2
 THIS DRAWING IS CONFIDENTIAL AND IS THE SOLE PROPERTY OF THE OWNER. IT IS PROVIDED ONLY FOR USE BY THE OWNER AND ITS EMPLOYEES OR CONTRACTORS. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE OWNER.
 IT IS A VIOLATION OF LAW TO USE THESE PLANS FOR ANY OTHER PROJECT WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER.

EXHIBIT C

Description of COUNTY's Communications Equipment

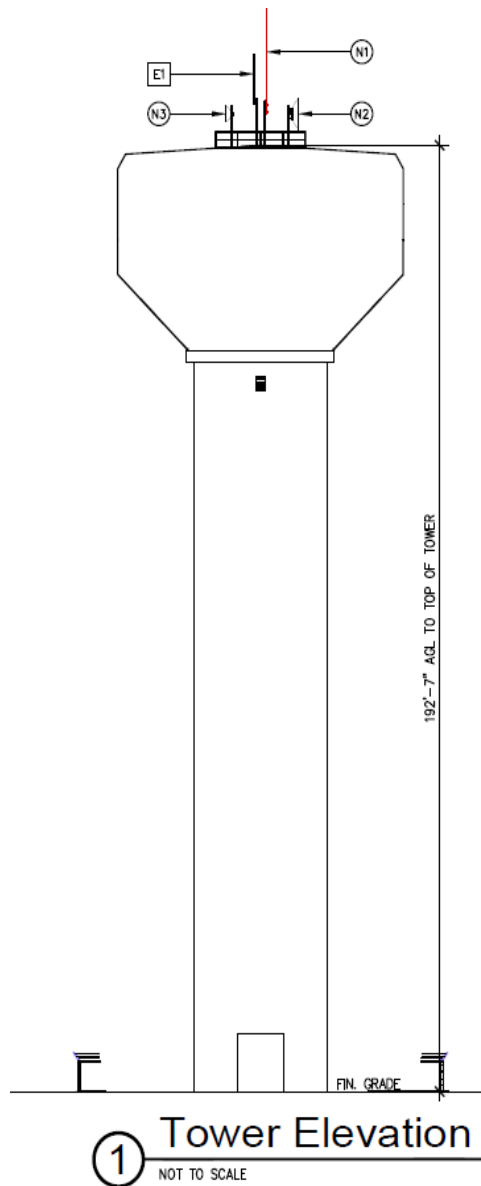
NBU WATER TANK - 192'-7" WATER TOWER

LAT: 29° 42' 40"

LON: -98° 9' 50.5"

Antenna/Appurtenance Location Chart

PROPOSED ANTENNA INFORMATION										FEEDLINE INFORMATION				
ANTENNA ID	MANUFACTURER	MODEL	TYPE	LENGTH	BOTTOM ELEV	RAD CENTER	TOP ELEV.	AZIMUTH	QTY.	TYPE	MANUFACTURER	MODEL	SIZE	QTY.
N1	DBSPECTRA	DS1F03P36D-D	OMNI	22.3'	199.0'	210.2'	221.3'	-	1	COAX	COMMSCOPE	AVA5-50	TBD	2
N2	RFS	PAD6-W57B	MW	6.0'	196.0'	199.0'	202.0'	-	1	COAX	COMMSCOPE	E65	TBD	1
N3	RFS	SC3-W100A	MW	3.0'	197.5'	199.0'	200.5'	-	1	COAX	COMMSCOPE	E105	TBD	1



Error! Unknown document property name.

NBU Site Name: Westpointe WT